

**RESPONSE UNDER 37 C.F.R. § 1.116  
EXPEDITED PROCEDURE – Art Unit 2121**

Attorney Docket No. 291958157US1

Client Ref No. P01-0022

**REMARKS**

Introduction

In the Supplemental Office Action dated February 3, 2005 (part of Paper No. 20050125), the Examiner rejected claims 26-33 and 44-45 under the judicially created doctrine of obviousness-type double patenting, rejected claim 46 for statutory double patenting under 35 U.S.C. § 101, and rejected claims 26-33 and 44-46 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,871,805 to Lemelson ("Lemelson").

Applicants thank the Examiner for the consideration shown to applicants' representatives during the telephone interview conducted on July 7, 2005, in which was discussed the finality of the Office Action, obviousness-type double patenting rejections, statutory double patenting rejection, and prior art rejections. Applicants are grateful for the Examiner removing the finality of the Office Action. As discussed during the interview, claim 48 was for the first time rejected under 35 U.S.C. § 102 in the Office Action; such rejection could not have been necessitated by amendment, as claim 48 has never been amended. Accordingly, the finality was improper.

Obviousness-Type Double Patenting Rejections

The Examiner rejected claims 26-33 and 44-45 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 27-34 and 46-47 of copending Application No. 09/866,391. Under 37 C.F.R. § 1.130(b), a timely filed terminal disclaimer may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with the pending application. Applicants submit a terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) and § 3.73(b) herewith to overcome this rejection.

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**Statutory Double Patenting Rejection**

The Examiner rejected claim 46 for statutory double patenting under 35 U.S.C. § 101 over claim 48 of Application No. 09/866,391. Section 1.78(b) of 37 C.F.R. provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. See M.P.E.P. § 822. Because applicants cancelled the referenced claim 48 of Application No. 866,391 on October 20, 2004 in response to the Office Action dated June 29, 2004 (Paper No. 20040620), applicants respectfully request that the Examiner reconsider and withdraw this rejection.

**Prior Art Rejection**

The Examiner rejected claims 26-33 and 44-46 under 35 U.S.C. § 102(e) over Lemelson. Applicants respectfully traverse this rejection, addressing claim 46 separately.

Applicants' technology is directed to the selection and refinement of electrical parameters for processing a microelectronic workpiece to approach a target plating profile, where the parameters are adjusted through an iterative process.

Claim 26 recites configuring the parameters for depositing material on the workpiece for each of the sequence of workpieces based on "the measured thickness of the previous workpiece in the sequence before material is deposited on the previous workpiece." Rather than using information from the previous workpiece in a sequence of workpieces to configure parameters, Lemelson is concerned with scanning the substrate being coated or a test blank that is "simultaneously exposed to the same conditions as the substrate" (4:57-4:59); observing "coating thickness on a test blank, providing a control point which is compared with a predetermined, desired thickness profile to generate an objective function that is used to adaptively control the CVD process," (5:23-5:27 (describing Figure 1)), where the test blank is "preferably made of

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the same material as the substrate ... which is to be coated" (5:27-5:28 (describing Figure 1)); scanning "the surface of the workpiece or test blank to provide optimum flatness or another profile" (6:47-6:49); using a "predetermined mathematical model of the coating process, which takes account of the effect of pertinent process variables" to relate "the predicted effects of changes in those process parameters on one or more objective functions" (7:46-7:61); and using a predetermined four-component geometric model to "take into account the desired geometry of the part being coated" (see 8:26-8:32). Applicants respectfully submit that the cited portions of Lemelson's patent in no way consider using information from the previous workpiece in a sequence of workpieces to configure parameters. To the contrary, Lemelson only considers the substrate being coated or a nearby test blank simultaneously. Because the standard for a proper rejection under 35 U.S.C. § 102 is a high one, requiring every recited element of a rejected claim to be *identically disclosed* in a single prior art reference, applicants submit that Lemelson fails to satisfy this standard for claim 26.

Claims 27-33 and 44-45 recite features similar to those of claim 26, and are patentable over Lemelson for the reasons discussed above.

Unlike the other claims discussed above, claim 46 is directed to a deposition chamber offset data structure. Because the Examiner has not cited portions of Lemelson that disclose the elements recited by claim 46, claim 46 is patentable over Lemelson.

Based upon the foregoing, applicants respectfully request that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 102(e) with respect to all of the claims.

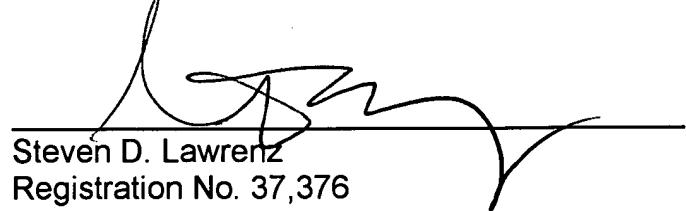
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Respectfully submitted,

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